

105TH CONGRESS  
1ST SESSION

# S. 399

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## AN ACT

To amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Environmental Policy  
5       and Conflict Resolution Act of 1997”.

1 **SEC. 2. DEFINITIONS.**

2 Section 4 of the Morris K. Udall Scholarship and Ex-  
 3 cellence in National Environmental and Native American  
 4 Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

5 (1) by redesignating paragraphs (4), (5), (6),  
 6 and (7) as paragraphs (5), (9), (7), and (8), respec-  
 7 tively;

8 (2) by inserting after paragraph (3) the follow-  
 9 ing:

10 “(4) the term ‘environmental dispute’ means a  
 11 dispute or conflict relating to the environment, pub-  
 12 lic lands, or natural resources;”;

13 (3) by inserting after paragraph (5) (as redesign-  
 14 ated by paragraph (1)) the following:

15 “(6) the term ‘Institute’ means the United  
 16 States Institute for Environmental Conflict Resolu-  
 17 tion established pursuant to section 7(a)(1)(D);”;

18 (4) in paragraph (7) (as redesignated by para-  
 19 graph (1)), by striking “and” at the end;

20 (5) in paragraph (8) (as redesignated by para-  
 21 graph (1)), by striking the period at the end and in-  
 22 serting “; and”; and

23 (6) in paragraph (9) (as redesignated by para-  
 24 graph (1))

25 (A) by striking “fund” and inserting  
 26 “Trust Fund”; and

1 (B) by striking the semicolon at the end  
2 and inserting a period.

3 **SEC. 3. BOARD OF TRUSTEES.**

4 Section 5(b) of the Morris K. Udall Scholarship and  
5 Excellence in National Environmental and Native Amer-  
6 ican Public Policy Act of 1992 (20 U.S.C. 5603(b)) is  
7 amended—

8 (1) in the matter preceding paragraph (1) of  
9 the second sentence, by striking “twelve” and insert-  
10 ing “thirteen”; and

11 (2) by adding at the end the following:

12 “(7) The chairperson of the President’s Council  
13 on Environmental Quality, who shall serve as a non-  
14 voting, ex officio member and shall not be eligible to  
15 serve as chairperson.”.

16 **SEC. 4. PURPOSE.**

17 Section 6 of the Morris K. Udall Scholarship and Ex-  
18 cellence in National Environmental and Native American  
19 Public Policy Act of 1992 (20 U.S.C. 5604) is amended—

20 (1) in paragraph (4), by striking “an Environ-  
21 mental Conflict Resolution” and inserting “Environ-  
22 mental Conflict Resolution and Training”;

23 (2) in paragraph (6), by striking “and” at the  
24 end;

1           (3) in paragraph (7), by striking the period at  
2           the end and inserting a semicolon; and

3           (4) by adding at the end the following:

4           “(8) establish as part of the Foundation the  
5           United States Institute for Environmental Conflict  
6           Resolution to assist the Federal government in im-  
7           plementing section 101 of the National Environ-  
8           mental Policy Act of 1969 (42 U.S.C. 4331) by pro-  
9           viding assessment, mediation, and other related serv-  
10          ices to resolve environmental disputes involving  
11          agencies and instrumentalities of the United States;  
12          and

13          “(9) complement the direction established by  
14          the President in Executive Order 12988 (61 Fed.  
15          Reg. 4729; relating to civil justice reform).”.

16 **SEC. 5. AUTHORITY.**

17          Section 7(a) of the Morris K. Udall Scholarship and  
18          Excellence in National Environmental and Native Amer-  
19          ican Public Policy Act of 1992 (20 U.S.C. 5605(a)) is  
20          amended—

21          (1) in paragraph (1), by adding at the end the  
22          following:

23                  “(D) INSTITUTE FOR ENVIRONMENTAL  
24                  CONFLICT RESOLUTION.—

1 “(i) IN GENERAL.—The Foundation  
2 shall—

3 “(I) establish the United States  
4 Institute for Environmental Conflict  
5 Resolution as part of the Foundation;  
6 and

7 “(II) identify and conduct such  
8 programs, activities, and services as  
9 the Foundation determines appro-  
10 priate to permit the Foundation to  
11 provide assessment, mediation, train-  
12 ing, and other related services to re-  
13 solve environmental disputes.

14 “(ii) GEOGRAPHIC PROXIMITY OF  
15 CONFLICT RESOLUTION PROVISION.—In  
16 providing assessment, mediation, training,  
17 and other related services under clause  
18 (i)(II) to resolve environmental disputes,  
19 the Foundation shall consider, to the maxi-  
20 mum extent practicable, conflict resolution  
21 providers within the geographic proximity  
22 of the conflict.”; and

23 (2) in paragraph (7), by inserting “and Train-  
24 ing” after “Conflict Resolution”.

1 **SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

2 (a) REDESIGNATION.—Sections 10 and 11 of the  
3 Morris K. Udall Scholarship and Excellence in National  
4 Environmental and Native American Public Policy Act of  
5 1992 (20 U.S.C. 5608, 5609) are redesignated as sections  
6 12 and 13 of that Act, respectively.

7 (b) ENVIRONMENTAL DISPUTE RESOLUTION  
8 FUND.—The Morris K. Udall Scholarship and Excellence  
9 in National Environmental and Native American Public  
10 Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended  
11 by subsection (a)) is amended by inserting after section  
12 9 the following:

13 **“SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

14 “(a) ESTABLISHMENT.—There is established in the  
15 Treasury of the United States an Environmental Dispute  
16 Resolution Fund to be administered by the Foundation.  
17 The Fund shall consist of amounts appropriated to the  
18 Fund under section 13(b) and amounts paid into the Fund  
19 under section 11.

20 “(b) EXPENDITURES.—The Foundation shall expend  
21 from the Fund such sums as the Board determines are  
22 necessary to establish and operate the Institute, including  
23 such amounts as are necessary for salaries, administra-  
24 tion, the provision of mediation and other services, and  
25 such other expenses as the Board determines are nec-  
26 essary.

1       “(c) DISTINCTION FROM TRUST FUND.—The Fund  
2 shall be maintained separately from the Trust Fund estab-  
3 lished under section 8.

4       “(d) INVESTMENT OF AMOUNTS.—

5           “(1) IN GENERAL.—The Secretary of the  
6 Treasury shall invest such portion of the Fund as is  
7 not, in the judgment of the Secretary, required to  
8 meet current withdrawals.

9           “(2) INTEREST-BEARING OBLIGATIONS.—In-  
10 vestments may be made only in interest-bearing obli-  
11 gations of the United States.

12          “(3) ACQUISITION OF OBLIGATIONS.—For the  
13 purpose of investments under paragraph (1), obliga-  
14 tions may be acquired—

15           “(A) on original issue at the issue price; or

16           “(B) by purchase of outstanding obliga-  
17 tions at the market price.

18          “(4) SALE OF OBLIGATIONS.—Any obligation  
19 acquired by the Fund may be sold by the Secretary  
20 of the Treasury at the market price.

21          “(5) CREDITS TO FUND.—The interest on, and  
22 the proceeds from the sale or redemption of, any ob-  
23 ligations held in the Fund shall be credited to and  
24 form a part of the Fund.”.

1 **SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

2       The Morris K. Udall Scholarship and Excellence in  
3 National Environmental and Native American Public Pol-  
4 icy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended  
5 by section 6) is amended by inserting after section 10 the  
6 following:

7 **“SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

8       “(a) AUTHORIZATION.—A Federal agency may use  
9 the Foundation and the Institute to provide assessment,  
10 mediation, or other related services in connection with a  
11 dispute or conflict related to the environment, public  
12 lands, or natural resources.

13       “(b) PAYMENT.—

14               “(1) IN GENERAL.—A Federal agency may  
15 enter into a contract and expend funds to obtain the  
16 services of the Institute.

17               “(2) PAYMENT INTO ENVIRONMENTAL DISPUTE  
18 RESOLUTION FUND.—A payment from an executive  
19 agency on a contract entered into under paragraph  
20 (1) shall be paid into the Environmental Dispute  
21 Resolution Fund established under section 10.

22       “(c) NOTIFICATION AND CONCURRENCE.—

23               “(1) NOTIFICATION.—An agency or instrumen-  
24 tality of the Federal Government shall notify the  
25 chairperson of the President’s Council on Environ-  
26 mental Quality when using the Foundation or the



1 Institute to provide the services described in sub-  
 2 section (a).

3 “(2) NOTIFICATION DESCRIPTIONS.—A notifi-  
 4 cation under paragraph (1) shall include a written  
 5 description of—

6 “(A) the issues and parties involved;

7 “(B) prior efforts, if any, undertaken by  
 8 the agency to resolve or address the issue or is-  
 9 sues; and

10 “(C) other relevant information.

11 “(3) CONCURRENCE.—

12 “(A) IN GENERAL.—In a case that involves  
 13 a dispute or conflict between 2 or more agencies  
 14 or instrumentalities of the Federal Government  
 15 (including branches or divisions of a single  
 16 agency or instrumentality), an agency or instru-  
 17 mentality of the Federal Government shall ob-  
 18 tain the concurrence of the chairperson of the  
 19 President’s Council on Environmental Quality  
 20 before using the Foundation or Institute to pro-  
 21 vide the services described in subsection (a).

22 “(B) INDICATION OF CONCURRENCE OR  
 23 NONCONCURRENCE.—The chairperson of the  
 24 President’s Council on Environmental Quality  
 25 shall indicate concurrence or nonconcurrence

1 under subparagraph (A) not later than 20 days  
 2 after receiving notice of the dispute or con-  
 3 flict.”.

4 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—Section 13 of the Morris K. Udall  
 6 Scholarship and Excellence in National Environmental  
 7 and Native American Public Policy Act of 1992 (as redes-  
 8 ignated by section 6(a)) is amended—

9 (1) by striking “There are authorized to be ap-  
 10 propriated to the Fund” and inserting the following:

11 “(a) TRUST FUND.—There is authorized to be appro-  
 12 priated to the Trust Fund”; and

13 (2) by adding at the end the following:

14 “(b) ENVIRONMENTAL DISPUTE RESOLUTION  
 15 FUND.—There are authorized to be appropriated to the  
 16 Environmental Dispute Resolution Fund established  
 17 under section 10—

18 “(1) \$4,250,000 for fiscal year 1998, of  
 19 which—

20 “(A) \$3,000,000 shall be for capitalization;  
 21 and

22 “(B) \$1,250,000 shall be for operation  
 23 costs; and

24 “(2) \$1,250,000 for each of fiscal years 1999  
 25 through 2002 for operation costs.”.

1   **SEC. 9. CONFORMING AMENDMENTS.**

2           (a) The second sentence of section 8(a) of the Morris  
3   K. Udall Scholarship and Excellence in National Environ-  
4   mental and Native American Public Policy Act of 1992  
5   (20 U.S.C. 5606) is amended—

6           (1) by striking “fund” and inserting “Trust  
7   Fund”; and

8           (2) by striking “section 11” and inserting “sec-  
9   tion 13(a)”.

10          (b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K.  
11   Udall Scholarship and Excellence in National Environ-  
12   mental and Native American Public Policy Act of 1992  
13   (20 U.S.C. 5605(a)(6), 5606(b), 5607(a)) are each  
14   amended by striking “Fund” and inserting “Trust Fund”  
15   each place it appears.

Passed the Senate October 9, 1997.

Attest:

*Secretary.*

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